

Nonprofits Watch for Impact of Health Care Act

The passage of health care legislation in March 2010, led to another whirlwind of activity, news coverage, and political maneuvering. Many organizations in the nonprofit community, however, have little idea how this legislation may affect their operations, funding, and charitable activities. While the final form and details of changes to health care are in progress, the language of the Patient Protection and Affordable Care Act ("Act") does provide some indication of how nonprofits will be impacted. The following highlights some of the changes, challenges, and opportunities facing nonprofits:

Tax Credit for Small Nonprofit Employers. Employers with 25 or fewer employees and average wages less than \$50,000 per year are defined as "small employers." Diana Aviv, president and CEO of Independent Sector, says that "65 percent of nonprofits employ 25 or fewer workers." Small nonprofit employers which provide a health plan are provided a tax credit that can be used against payroll tax liabilities. The tax credit is available if the nonprofit pays at least 50 percent of its employees' premium.

Providing Insurance Coverage for Employees. Large nonprofit employers (more than 50 full-time employees) will be fined if full-time employees either are not offered minimum essential coverage or have to wait over 60 days for enrollment. Employers with more than 200 full-time employees must automatically enroll new employees. They must also provide certain notices such as the opportunity to opt-out of employer-provided coverage and to enroll in an insurance exchange.

State Based Insurance Exchanges. The Act seeks to address small nonprofits' challenge of finding affordable group insurance. Larger companies generally have greater buying power because of the larger number of employees over which to spread risk. This normally results in lower premiums. Under the Act, by 2014 the states must establish exchanges (pools) for purchasing health insurance. Presumably these exchanges will level the playing field for smaller organizations.

Nonprofit Health Insurance Issuers. The Act includes funding for a federal program to establish qualified nonprofit health insurance issuers. The funding would include start-up assistance loans and grants. These health insurance issuers are to be nonprofit, member-run, and tax exempt under IRC §501(c)(29). This program is referred to as the Consumer Operated and Oriented Program ("CO-OP").

Charitable Hospital Operations. New requirements are imposed on IRC §501(c)(3) charitable hospitals. These hospitals are required to conduct a community health needs assessment, adopt a written financial assistance policy, restrict certain charges specified in the Act, and limit certain collection activities.

Numerous tax provisions in the Act will also affect many nonprofit employers, such as those addressing cafeteria plans, HSA distributions, information reporting and disclosure, health plan fees, medical care itemized deduction thresholds, and premium assistance credit, among others.

The historically sweeping Act is expected to affect all Americans. While the turmoil, political and otherwise, associated with the Act continues to swirl, nonprofits and their leadership should be strategically assessing the opportunities and obstacles, and affirmatively plan for the changes and challenges.

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